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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,900	05/09/2001	Scott Bushman	2000.042200	3953

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HOUSTON, TX 77042

EXAMINER

YOUNG, CHRISTOPHER G

ART UNIT	PAPER NUMBER
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1756

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DATE MAILED: 01/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/851,900

Applicant(s)

Bushman et al.

Examiner

Young

Group Art Unit

1756

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 11/24/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-24 is/are pending in the application.
- ☐ Claim(s) 12-24 is/are withdrawn from consideration.
- ☒ Claim(s) 1-11 is/are allowed.
- ☐ Claim(s) is/are rejected.
- ☒ Claim(s) 1-24 is/are objected to.
- are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

1. This Office action is responsive to the election (Paper No. 3) filed November 26, 2002 wherein the claims of Group I, 1-11 were elected for prosecution in the instant application with traverse. Claims 12-24 stand withdrawn by the Examiner as being part of the non-elected inventions.

2. The Examiner has considered the traversal of claim 12 as being a claim to "means" for practicing the process claims set forth in the Group I invention. After carefully reviewing the cited sections of the MPEP, the Examiner agrees that the claim satisfies the "means" claim limitations as set forth therein, however, since the process claims of 1-11 are not indicated as allowable at this time, claim 12 is held in a withdrawn status with the remaining apparatus claims. At a time where claims 1-11 are determined to be patentable, claim 12 would be entitled to rejoinder if all claimed limitations as set forth in the process claims are specifically shown in the means claim of claim 12.

3. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams.

The scope of the protection sought is described, taught and suggested by Adams wherein a semiconductor integrated circuit fabrication process is described utilizing latent imagery. The scope of the protection sought in the instant application is drawn to a method comprising forming a layer of photoresist above a process layer formed above a first semiconductor substrate, determining a position at a top surface of the layer of photoresist, positioning a full plane of a light source adjacent the layer of photoresist based upon the determined position and energizing the light source.

Column 13, lines 1-29 of Adams describe a field curvature embodiment for their invention. In this passage is disclosed that a focal surface (loosely termed a focal plane) is the conceptual surface of optimum focus values within a printing field. This optimum focus valued surface is then utilized as the position for energizing the light source. This describes the basic requirements of the instant invention as claimed. However, it is unclear whether a strict determinization of the position of the top surface is made based on this disclosure. It is the Examiner's position that the location of the top surface must be made in the determination of the focal plane as described in the passage of Adams. However, since a specific example, or claim,

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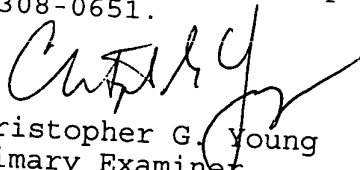
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is not present, the Examiner is not making a 35 U.S.C. § 102 rejection of anticipation. In lieu of this, a 35 U.S.C. § 103 rejection of prima facie obviousness is being issued by the Examiner over Adams in combination with one of ordinary skill in the requisite art's knowledge and ability. It is clear that to determine the focal plane as set forth in Adams, one of skill would necessarily need to determine the position of the top surface of the photoresist, this is true because it is impossible to determine the focal plane without determining the surface of the optimum focus values.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Young, whose telephone number is (703) 308-2984. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff, can be reached on (703) 308-2464. A Fax communication that is for a non-final fax should be sent to (703) 872-9310. An after final fax should be sent to (703) 872-9311.

Any inquiry of general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.


Christopher G. Young
Primary Examiner
Art Unit 1756

C. Young:cdc
January 9, 2003